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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/618,497 07/18/00 ZHENG

Y PAT-1238-DIV

EXAMINER

PM82/1023

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ART UNIT

PAPER NUMBER

3635

DATE MAILED:

10/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/618,497

Applicant(s)
Yu Zheng

Examiner
Winnie Yip

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 26, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

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DETAILED ACTION

This office action is in response to applicant's response filed on September 26, 2001.

Claims 7-15 had been canceled in view of applicant's response. Claims 1-6 are pending in the application.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of "the first and second end edges lie within the outer periphery of the first panel" (claim 6) while "the first and second end edges being coupled to the outer periphery of the first panel" as previously claimed (claim 1) must be shown or the features canceled from the claims. No new matter should be entered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 1-6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,098,349. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim substantially same structural and functional subject matters except wording differently. For example, a first base panel, a second panel, the “interconnecting pieces” of the present application is substantially the same as “the material” of said patent for coupling the opposing end edges of the second panel to the outer periphery of the first base panel such that the opposing end edges are offset from (or extend beyond or adjacent) the outer periphery of the base panel as claimed in said patent.

Claim Rejections - 35 U.S.C. § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 15 and 18, the claim language such as “for coupling” renders the claims indefinite **for not positively** reciting the relationship between the structural elements such as between the interconnecting pieces and the respective end edges of the second panel. Should it read “coupling” ?

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Claim Rejections - 35 U.S.C. § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by McLeese (US patent No. Re 35,571).

McLeese shows and discloses a collapsible structure comprising: a first base panel (14), a second panel (16), each panel having a foldable frame member (14, 16) inherently having an outer periphery, a fabric material (68, 40) over the respective foldable frame members along the outer peripheries by a sleeve, and the second panel (16) having opposing end edges coupled and fixed to opposing locations of the outer periphery of the first base panel (14) by first and second interconnecting pieces (20 or 64) to define an interior space.

8. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Price (US patent No. 5,676,168).

Price shows and discloses a collapsible structure comprising: a first base panel (11), a second panel (10), each panel having a foldable frame member (14, 18) inherently having an outer periphery, a fabric material over the respective foldable frame members along the outer peripheries by a sleeve (92), and the second panel (18) having opposing end edges coupled and

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fixed to opposing locations of the outer periphery of the first base panel (14) by first and second interconnecting pieces (24) such that the first base panel and the second panel define an interior space with an opening. Wherein, as show in figure 4, the first and second end edges of the second panel (18) are lied within the outer periphery of the first panel.

Claim Rejections - 35 U.S.C. § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng (US Patent No. 5,778,915) in view of Price '168.

Zheng '915 shows and discloses a collapsible structure comprising: a first base panel (22c or 52a or 72a) having an outer periphery (23a-d), a second panel which includes a plurality of panels (22a, 22b) connected each other, each panel having a foldable frame member covered by a fabric material (34, 33), the second panel defining two opposing end edges (26b, 27b; or 82a, 80a) coupled to opposing locations (74c, 74a) on the outer periphery of the first base panel (22c or 72a) by interconnecting pieces such as a piece of fabric material (36 or 37) stitching between the end edge and the outer periphery, or VELCRO pads (25a, 25b). Therefore, the opposing end edges of the second panel are considered to extend beyond the outer periphery of the first base panel as claimed. Although Zheng does not define the second panel being a single panel, Price

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teaches a collapsible structure having a second panel formed by a single second panel (18) coupled to a base panel (14) to define an interior space therebetween. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible structure of Zheng having the upper second panel being formed by a single panel as taught by Price instead of a serval smaller panels since it has been held to be within the general skill of a worker in the art to make plural parts unitary as a matter of obvious design choice.

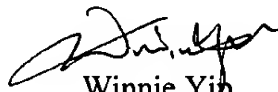
Citations

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hazinski et al. '096, Gobel '716, Takos (US Des. 412,354), and Gale (US Des. 400,949) teach various collapsible structures having a second panel having two end edges coupled to an outer periphery of a base panel as similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Yip whose telephone number is (703) 308-2491. The examiner can normally be reached on Mondays through Friday from 9:30 AM to 6:30 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The Fax phone number for this Group is (703) 305-7687.


Winnie Yip
Patent Examiner
Group Art Unit 3635

October 18, 2001